

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Southern California Regional Rail Authority (SCRRA) requesting a variance from CPUC General Order No. 26-D requirement on side clearance at the Laguna Niguel/Mission Viejo Metrolink Station location located on the Orange Subdivision at railroad mile post 193.00 in the City of Laguna Niguel, County of Orange, California.

Application 02-10-042
(Filed October 28, 2002)

O P I N I O N**Summary**

Decision grants a variance from side-clearance requirements of General Order 26-D (G.O. 26-D) to Southern California Regional Rail Authority (SCRRA) pertaining to the concrete-encased upper portion of skylights adjoining tracks at the Laguna Niguel station at Mile Post 193.0. To mitigate the hazard to an acceptable level, SCRRA has agreed to ramp platform edges and install precautionary signage.

Discussion

In March 2002, during an inspection of SCRRA's Laguna Niguel station under construction at railroad Mile Post 193.0, a member of the Commission's Railroad Operations and Safety Section (Staff) identified the impaired clearance of a concrete slab measuring 5' 4" from the centerline of track at 8" above top of rail. The structure is between the north and south tracks, which are 18' apart,

separated by a fence, and encases a row of skylights, which provide natural lighting to a tunnel below that connects passengers to the platforms.

Station facilities are used for passenger boarding/deboarding of stopping Metrolink passenger trains, but tracks are also used by National Railroad Passenger Corporation (Amtrak) trains and Burlington Northern Santa Fe Railway (BNSF) freight trains, both passing by at maximum authorized speeds without stopping.

Staff initially objected to the slab under preliminary construction because it was not a passenger platform¹ and therefore posed a potential hazard to working trainmen.² Staff observed that SCRRA has built similar skylight structures at Anaheim and Tustin, but the installations there were flush with walking surfaces and not above top of rail. Staff was not pleased that SCRRA continued with the construction of the non-complying skylights even after its recognizing that they were non-complying and that intervening corrective action could have prevented an impairment.

Staff attempted to gain SCRRA's compliance but was rebuffed because allegedly cutting and moving down the skylights would be cost-prohibitive and without safety benefits. SCRRA also maintained that the corrective procedure could result in leakage within a matter of years.

¹ G.O. 26-D, Section 3.3, permits side clearances of 4' 8" from track centerline only for platforms. Other structures require a side clearance of 8' 6" by G.O. 26-D, Section 3.2.

² G.O. 118 prohibits abrupt elevation differences for walking trainmen and requires "a reasonable regular surface with gradual slope not to exceed approximately one inch to eight inches."

SCRRA then filed Application No. 02-10-042 seeking a variance from the side-clearance requirement. Copies were served on Amtrak, BNSF, and UTU. The Commission received no protests during the designated period. United Transportation Union advised that it had decided not to protest the matter. With its formal application, SCRRA attached letters from Amtrak and BNSF stating that they had no objection to the variance.

Staff met with SCRRA on January 31, 2003, to resolve the safety hazards to an acceptable level. Staff stated that it expected compliance over such installations in the future. SCRRA concurred and further agreed to ramp the north and south ends of the installation to comport with General Order 118 standards, and to install signage prohibiting the public from occupying the area. SCRRA and Staff reached agreement that the resulting “platform” may be occupied by rail employees only. The ensuing order will provide for this restriction.

In Resolution ALJ 176-3099, dated November 7, 2002, and published in the Commission Daily Calendar on November 8, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed and no hearings were held, this preliminary determination remains accurate. Given these developments, it is not necessary to disturb the preliminary determination made in Resolution ALJ 176-3099. The Commission’s Consumer Protection and Safety Division recommends that the Commission grant this application.

This is an uncontested matter that should be granted without public hearing. Accordingly, pursuant to Public Utilities Code Section 311 (g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published Notice of the Application in the Commission Daily Calendar on November 6, 2002. There are no unresolved matters or protests; a public hearing is not necessary.

2. SCRRA requests a variance, under G.O. 26-D, Section 16.2, for the existing center row of skylights - built to provide natural light to the underpass between the two passenger loading platforms - at its Laguna Niguel station, at eight inches above top of rail instead of below top of rail.

3. The skylight installation was not constructed as a platform and, therefore, G.O. 26-D, Section 3.2, requires a side clearance of 8 feet six inches from track centerline.

4. SCRRA alleges that meeting clearance requirements by cutting the cement to lower the platform is cost prohibitive and may cause it to leak in a matter of years.

5. SCRRA met with Commission Staff and is agreeable to ramping the edges of the platform to ensure the safety of trainmen walking the area or riding equipment. SCRRA is also agreeable to posting signage prohibiting occupancy of the structure by other than rail employees.

Conclusions of Law

1. The sought variance with precautions agreed to will result in a reasonably safe facility.

2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. Southern California Regional Rail Authority (SCRRA) is granted a variance from Commission General Order 26-D, Section 3.2, for existing concrete embedded skylights between two passenger loading platforms at railroad Mile Post 193.00 in the City of Laguna Niguel, in Orange County.
2. SCRRA shall ramp the north and south ends of the approved skylight installation to comply with Commission General Order 118.
3. SCRRA shall post signage at the location prohibiting trespassing on of the approved skylight installation and occupancy thereon other than by rail employees or their contractors.
4. SCRRA shall complete the requirements of Ordering Paragraphs 2 and 3 within 60 days of the order's effective date and shall notify Staff that work is complete.
5. The application is granted as set forth above.
6. Application 02-10-042 is closed.

This order is effective today.

Dated _____, at San Francisco, California.